

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland
September 6, 2006

The Commission met in open session, pursuant to notice, at 1:50 pm,
Dale E. Klein, presiding.

COMMISSIONERS PRESENT:

DALE E. KLEIN, Chairman of the Commission

EDWARD MCGAFFIGAN, JR., Member of the Commission

JEFFREY S. MERRIFIELD, Member of the Commission

GREGORY B. JACZKO, Member of the Commission

PETER B. LYONS, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

KAREN CYR, General Counsel

ANNETTE VIETTI-COOK, Secretary of the Commission

DISCLAIMER

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The transcript is intended solely for general information purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

[1:50 pm]

P R O C E E D I N G S

CHAIRMAN KLEIN: Good afternoon. I understand we have several items for affirmation today. Any comments before we start? Madam Secretary, would you begin.

ANNETTE VIETTI-COOK: The first item is on Pacific Gas & Electric Company, Diablo Canyon Independent Spent Fuel Storage Installation. The Commission is being asked to act on a Memorandum and Order responding to a motion by San Luis Obispo Mothers for Peace, Sierra Club, and Peg Pinard for Declaratory and Injunctive Relief (collectively called San Luis Obispo Mothers for Peace) with respect to the Diablo Canyon Independent Spent Fuel Storage Installation (ISFSI). Based on a recent court decision in the Ninth Circuit, San Luis Obispo Mothers for Peace asks the NRC to declare the Pacific Gas & Electric Independent Spent Fuel Storage Installation license invalid, declare that any further construction by Pacific Gas & Electric will be conducted at its own risk, and prevent Pacific Gas & Electric from loading spent fuel into the Independent Spent Fuel Storage Installation pending completion of an Environmental Impact Statement discussing the environmental impacts of a terrorist attack. The Commission has voted to approve a Memorandum and Order which denies the San Luis Obispo Mothers for Peace's motion for declaratory and injunctive relief as unnecessary and premature. Commissioner Jaczko has offered a separate dissenting opinion.

ANNETTE VIETTI-COOK: Would you please affirm your votes.

CHAIRMAN KLEIN: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

COMMISSIONER JACZKO: Aye.

COMMISSIONER LYONS: Aye.

ANNETTE VIETTI-COOK: The second item is on AmerGen Energy Company License Renewal for Oyster Creek Nuclear Generating Station. The Commission is being asked to act on a Memorandum and Order responding to four legal challenges to the Atomic Safety and Licensing Board's decisions in LBP-06-07 and LBP-06-11. In LBP-06-07, the Board rejected proposed contentions filed by the New Jersey Department of Environmental Protection which is called "New Jersey" and admitted a narrowed version of the proposed contention filed by the Nuclear Information and Resource Service ("NIRS"), Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety, New Jersey Public Interest Research Group, New Jersey Sierra Club, and New Jersey Environmental Federation (collectively, "Citizens"). An appeal filed by New Jersey argues that its three proposed contentions should have been admitted. Appeals filed by AmerGen and NRC staff argue that the Board erred in admitting the narrowed version of the Citizen's proposed contention. In LBP-06-11 the Board denied a motion by Citizens for leave to add contentions or supplement the basis of its original contention. An appeal filed by Citizens challenges this denial. The Commission has voted to approve a Memorandum and Order which affirms the Board's decision in LBP-06-07 with respect to New Jersey's appeal of the rejection of its second and third contentions and denies review of LBP-06-11. Decisions on New Jersey's appeal of the rejection of its first contention and on AmerGen's and the NRC staff's appeals of LBP-06-07 are postponed until further notice. Commissioner Jaczko has offered a separate dissenting opinion.

ANNETTE VIETTI-COOK: Would you please affirm your votes.

CHAIRMAN KLEIN: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

COMMISSIONER JACZKO: Aye.

COMMISSIONER LYONS: Aye.

ANNETTE VIETTI-COOK: And, the third item, Pa'ina Hawaii. The Commission is being asked to act on a Memorandum and Order responding to an appeal by Pa'ina Hawaii of two Atomic Safety and Licensing Board Orders issued on January 24, 2006 and March 24, 2006 which admitted for litigation two environmental contentions and one safety contention. The Commission has voted to approve a Memorandum and Order which dismisses Pa'ina's appeal as untimely.

ANNETTE VIETTI-COOK: Would you please affirm your votes?

CHAIRMAN KLEIN: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

COMMISSIONER JACZKO: Aye.

COMMISSIONER LYONS: Aye

ANNETTE VIETTI-COOK: That's all I have.

CHAIRMAN KLEIN: Any other comments? Meeting is adjourned.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: Affirmation Session

(PUBLIC MEETING)

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: September 6, 2006

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

Transcriber: NANCY S. GREATHEAD

Reporter: (TAPE RECORDING)